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**W.P.(MD) No.15308 of 2021**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.09.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.(MD) No.15308 of 2021**

**and**

**W.M.P.(MD) No.12205 of 2021**

Esther Ruby

... Petitioner

-VS-

- 1.The Director of School Education  
DPI Compound  
College Road, Chennai
- 2.The Chief Educational Officer  
Kanyakumari District  
Nagercoil
- 3.The District Educational Officer  
Kuzhithurai Educational District  
Kuzhithurai, Kanyakumari District
- 4.The Headmaster  
Government Higher Secondary School  
Kollancode  
Kanyakumari District

... Respondents



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**W.P.(MD) No.15308 of 2021**

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the entire record pertaining to the impugned order of recovery passed by the 4<sup>th</sup> respondent in Na.Ka.No.25/2021 dated 02.08.2021 calling the petitioner to refund the incentive received for M.A. from 20.12.2010 and quash the same as bad-in-law.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.S.Shaji Bino  
Special Government Pleader

### **ORDER**

This writ petition has been filed challenging the impugned recovery order dated 02.08.2021, passed by the fourth respondent, calling upon the petitioner to refund the incentive increment received by her for M.A., degree qualification, from 20.12.2010.

**2.** The petitioner has challenged the impugned recovery order, on the following grounds:



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- (a) The impugned recovery order is barred by limitation, as the petitioner had availed the incentive increment on 20.12.2010. Whereas, the impugned recovery order has been issued only on 02.08.2021, after a lapse of 11 years.
- (b) Prior permission is not required for the Government servant to obtain higher educational qualification.

**3.** Learned counsel for the petitioner has relied upon the following authorities in support of his contentions:

- (a) A Division Bench Judgment of the Madras High Court, dated 24.07.2023, passed in W.A.(MD) No.1124 of 2023, in the case of ***the Joint Director of School Education and others vs. S.Vasugi and another.***
- (b) A Division Bench Judgment of the Madras High Court, dated 16.04.2021, passed in W.A.(MD) No.813 of 2021, in the case of ***the Director of School Education and others vs. G.Anandhi and another.***



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4. Relying upon the aforesaid decisions, learned counsel for the petitioner would submit that as seen from the aforesaid decisions, there is no requirement for the petitioner to obtain prior permission to acquire higher educational qualification, as acquiring higher educational qualification is only to encourage the teachers to enhance the quality of education.

5. Learned counsel for the petitioner also drew the attention of this Court to the following authorities in support of his contention that the impugned recovery order is barred by limitation:

- (a) A Judgment of the Honourable Supreme Court in the case of ***State of Punjab & Ors vs. Rafiq Masih (White Washer)***, reported in ***AIR 2015 SC 696***.
- (b) A Judgment of the Honourable Supreme Court, dated 04.04.2025, passed in S.L.P.(C) No.5918 of 2024, in the case of ***Jogeswar Sahoo & Ors., vs. The District Judge, Cuttack & Ors.***



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**6.** Relying upon the aforesaid decisions, learned counsel for the petitioner would submit that the impugned recovery order is barred by limitation, since the same has been passed in respect of the payments made to the petitioner in the year 2010 i.e., after a lapse of 11 years.

**7.** A counter affidavit has been filed by the respondents reiterating the contents of the impugned order. According to the respondents, since there is no entry in the service records of the petitioner for acquiring higher educational qualification, the incentive increment granted to the petitioner had to be cancelled and the impugned recovery order had to be issued.

**8.** The law is now well settled with regard to making recovery of excess / erroneous payments by the Government to its employees. The law is also now well settled with regard to the requirement of a Government servant to seek prior permission for obtaining higher educational qualification. Insofar as the recovery of erroneous payments made by the Government to its servants, the said recovery can be made only within a reasonable period. Directions have been issued by the Honourable Supreme Court in the case of



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***State of Punjab & Ors vs. Rafiq Masih (White Washer)***, reported in ***AIR 2015 SC 696***, wherein strict timeline has been fixed for recovery of any erroneous / excess payments made by the Government to its servants. In the case on hand, the impugned recovery order issued to the petitioner on 02.08.2021 pertains to the alleged erroneous payments made by the respondents to her in the year 2010 for the petitioner having obtained higher educational qualification without obtaining prior permission from the respondents. Since the respondents have passed the impugned recovery order, after a lapse of 11 years, this Court is of the considered view that the delay on the part of the respondents to recover the erroneous payments from the petitioner is an inordinate one and cannot be condoned by this Court as it is contrary to the directions issued by the Honourable Supreme Court in ***White Washer's*** case, referred to supra.

9. The law is also now well settled that there is no requirement for the Government servants to seek prior permission for obtaining higher education qualification. In the instant case, the petitioner had acquired M.A.degree qualification without obtaining prior permission from the respondents. The petitioner also claims that she had informed the fourth



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respondent that she is going to acquire educational qualification (M.A.Degree). Though the respondents may contend that they were not informed about the same as the service records of the petitioner does not reveal that the petitioner had obtained M.A.Degree qualification, the said contention has to be rejected, since the law is now well settled that there is no requirement for an employee to seek prior permission for acquiring educational qualification, as the higher education qualification is only in the nature of enhancing the quality of education to the students. The Division Bench Judgments relied upon by the learned counsel for the petitioner, referred to supra, also supports the said view.

**10.** For the foregoing reasons, since the impugned recovery order has been issued belatedly i.e., after a lapse of 11 years from the date when the alleged erroneous payments were made to the petitioner and there is no necessity for the petitioner to obtain prior permission for securing higher educational qualification, this Court is of the considered view that the impugned order passed by the fourth respondent has to be quashed and this writ petition has to be allowed.



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**11.** Accordingly, this writ petition is allowed and the impugned recovery order dated 02.08.2021, passed by the fourth respondent, is hereby quashed. No costs. Consequently, connected miscellaneous petition is closed.

**15.09.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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To:

- 1.The Director of School Education,  
DPI Compound,  
College Road, Chennai.
- 2.The Chief Educational Officer,  
Kanyakumari District,  
Nagercoil.
- 3.The District Educational Officer,  
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- 4.The Headmaster,  
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**ABDUL QUDDHOSE, J.**

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**and**  
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**15.09.2025**